

Internal Revenue Service, Treasury

§ 301.6323(h)-1

appropriate United States district court during the required refiling period. In order to continue the effect of the notice of the lien, it is not necessary to refile the notice of lien with the Recorder of Deeds of the county where E resides, because the refiling of the notice of lien with the recorder of deeds does not constitute a proper filing for the purposes of section 6323(f). In addition, to continue the effect of the notice of lien under this section it is not necessary to send a copy of the notice of lien to the X life insurance company, because the sending of a notice of lien to an insurance company does not constitute a proper filing for the purposes of section 6323(f).

(c) *Required refiling period*—(1) *In general.* For the purpose of this section, except as provided in subparagraph (2) of this paragraph (c), the term “required refiling period” means—

(i) The 1-year period ending 30 days after the expiration of 6 years after the date of the assessment of the tax, and

(ii) The 1-year period ending with the expiration of 6 years after the close of the preceding required refiling period for such notice of lien.

(2) *Tax assessments made before January 1, 1962.* If the assessment of the tax is made before January 1, 1962, the first required refiling period shall be the calendar year 1967. Thus, to maintain the effectiveness of any notice of lien on file which relates to a lien which arose before January 1, 1962, the Internal Revenue Service will refile the notice of lien during the calendar year 1967.

(3) *Examples.* The provisions of this paragraph may be illustrated by the following examples:

Example 1. On March 1, 1963, an assessment of tax is made against B, a delinquent taxpayer, and a lien for the amount of the assessment arises on that date. On July 1, 1963, in accordance with § 301.6323(f)-1, a notice of lien is filed. The notice of lien filed on July 1, 1963, is effective through March 31, 1969. The first required refiling period for the notice of lien begins on April 1, 1968, and ends on March 31, 1969. A refiling of the notice of lien during that period will extend the effectiveness of the notice of lien filed on July 1, 1963, through March 31, 1975. The second required refiling period for the notice of lien begins on April 1, 1974, and ends of March 31, 1975.

Example 2. Assume the same facts as in example 1, except that although the Internal Revenue Service fails to refile a notice of lien during the first required refiling period

(April 1, 1963, through March 31, 1969), a notice of lien is filed on June 2, 1971, in accordance with § 301.6323(f)-1. Because of this filing, the notice of lien filed on June 2, 1971, is effective as of June 2, 1971. That notice must be refilled during the 1-year period ending on March 31, 1975, if it is to continue in effect after March 31, 1975.

Example 3. On April 1, 1960, an assessment of tax is made against B, a delinquent taxpayer, and a tax lien for the amount of the assessment arises on that date. On June 1, 1962, in accordance with § 301.6323(f)-1, a notice of lien is filed. Because the assessment of tax was made before January 1, 1962, the notice of lien filed on June 1, 1962, is effective through December 31, 1967. The first required refiling period for the notice of lien is the calendar year 1967. A refiling of the notice of lien during 1967 will extend the effectiveness of the notice of lien filed on June 1, 1962, through December 31, 1973.

[T.D. 7429, 41 FR 35509, Aug. 23, 1976]

§ 301.6323(h)-0 Scope of definitions.

Except as otherwise provided by § 301.6323(h)-1 the definitions provided by § 301.6323(h)-1 apply for purposes of §§ 301.6323(a)-1 through 301.6324-1.

[T.D. 7429, 41 FR 35509, Aug. 23, 1976]

§ 301.6323(h)-1 Definitions.

(a) *Security interest*—(1) *In general.* The term “security interest” means any interest in property acquired by contract for the purpose of securing payment or performance of an obligation or indemnifying against loss or liability. A security interest exists at any time—

(i) If, at such time, the property is in existence and the interest has become protected under local law against a subsequent judgment lien (as provided in subparagraph (2) of this paragraph (a)) arising out of an unsecured obligation; and

(ii) To the extent that, at such time, the holder has parted with money or money's worth (as defined in subparagraph (3) of this paragraph (a)).

For purposes of this subparagraph, a contract right (as defined in paragraph (c)(2)(i) of § 301.6323(c)-1) is in existence when the contract is made. An account receivable (as defined in paragraph (c)(2)(ii) of § 301.6323(c)-1) is in existence when, and to the extent, a right to payment is earned by performance.